



# Private Activity Bonds

Background and Summary  
April 2007

Private Activity Bonds (PABs) are tax-exempt bonds issued by or on behalf of local or state government for the purpose of providing special financing benefits for qualified projects. The financing is most often for projects of a private user, and the government generally does not pledge its credit. These bonds are used to attract private investment for projects that have some public benefit.

Since the passage of the Tax Reform Act of 1986 (the “Tax Act”), federal law has limited tax-exempt financing of private activities. Under past Internal Revenue Code, tax-exempt bonds could not be issued for projects that were owned or leased by private enterprises, with certain exceptions. These “Private Activity Bonds” would be issued for certain types of “exempt facilities,” including airport and port facilities, high-speed rail, mass commuting, residential rental projects, certain hazardous waste facilities, and water, sewage and solid waste disposal facilities.

SAFETEA-LU amended the Internal Revenue Code to add highway and freight transfer facilities to the types of privately developed and operated projects for which PABs may be issued. This change allows private activity on these types of projects, while maintaining the tax-exempt status of the bonds.

The law limits the total amount of such bonds to \$15 billion and directs the Secretary of Transportation to allocate this amount among qualified facilities. The \$15 billion in exempt facility bonds is not subject to the state volume caps.

Passage of the PAB legislation reflects the Federal Government’s desire to increase private sector investment in U.S. transportation infrastructure. Providing private developers and operators with access to tax-exempt interest rates lowers the cost of capital significantly, enhancing investment prospects and will lower the cost of financing these projects. Increasing the involvement of private investors in highway and freight projects generates new sources of money, ideas and efficiency and permits greater private sector risk taking in these projects.

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Qualified Highway or Surface Freight Transfer Facilities include:

- ❑ Any surface transportation project, which receives Federal assistance under Title 23, United States Code (as in effect on August 10, 2005, the date of the enactment of section 142(m))
- ❑ Any project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible and which receives Federal assistance under Title 23, United State Code (as so in effect)
- ❑ Any facility for the transfer of freight from truck to rail or rail to truck (including any temporary storage facilities directly related to such transfers) which receives Federal assistance under Title 23 or Title 49.

Examples of facilities for the transfer of freight from truck to rail or rail to truck include cranes, loading docks and computer-controlled equipment that are integral to such freight transfers. Examples of facilities that are not freight transfer facilities include lodging, retail, industrial or manufacturing facilities.



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